

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Facilitating the Provision of Spectrum-Based)	
Services to Rural Areas and Promoting)	WT Docket No. 02-381
Opportunities for Rural Telephone Companies To)	
Provide Spectrum-Based Services)	
)	
2000 Biennial Regulatory Review Spectrum)	WT Docket No. 01-14
Aggregation Limits)	
)	
Increasing Flexibility To Promote Access to and the)	
Efficient and Intensive Use of Spectrum and the)	WT Docket No. 03-202
Widespread Deployment of Wireless Services, and)	
To Facilitate Capital Formation)	

**ERICSSON INC'S OPPOSITION TO POWERWAVE'S PETITION FOR
RECONSIDERATION**

Ericsson Inc ("Ericsson") hereby submits its Opposition to the Petition for Reconsideration of Powerwave Technologies, Inc. ("Powerwave"), filed January 14, 2005, concerning the *Report and Order* in the above-captioned proceeding ("*Rural Order*").¹ Ericsson opposes Powerwave's Petition for Reconsideration because it will prevent wireless carriers from immediately incorporating technologies that increase network efficiency and significantly decrease the cost of deploying services. Delaying implementation of the Commission's *Rural Order* will unnecessarily delay consumers' benefit from additional efficiency and cost savings.

Powerwave asks that the Commission reconsider two sections of the rules adopted in the *Rural Order*: § 24.232 governing the Effective Isotropic Radiated Power ("EIRP") and peak output power of PCS base stations, and § 27.50 governing the EIRP and peak output power of

¹ *Report and Order, In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services; 2000 Biennial Regulatory Review Spectrum Aggregation Limits For CMRS*, WT Docket Nos. 02-381, 01-14, 03-202 (Sep. 27, 2004) (*Rural Order*)

AWS base stations. In both cases, the Commission increased EIRP levels and peak output power levels to encourage efficient and economical deployment of wireless services in rural and unserved areas. Powerwave does not object to the FCC's adoption of greater power limits.² Rather, it asks that the Commission stay its decisions increasing rural base station power limits until it issues its decision on similar issues in the 2002 Biennial Review and Advanced Wireless Service proceedings.³

Ericsson strongly opposes Powerwave's request that the FCC hold increased base station power limits in abeyance. If the Commission delays these decisions, it will bar wireless carriers from taking advantage of technologies that will immediately increase network efficiency and significantly decrease the cost of deploying services that benefit rural consumers. These technologies may, for example, enable coverage over larger rural geographic areas and improve coverage outdoors and indoors. In addition, if the Commission delays these decisions, the lack of regulatory certainty will prevent or delay carriers from making any investment in these technologies, especially in the near term.

Delaying carriers from incorporating these technologies will thwart the Commission's goal of encouraging effective deployment of wireless services in rural areas. In the *Rural Order*, the Commission found that increasing power limits in rural areas will benefit consumers by reducing the cost of infrastructure, making provision of spectrum-based services to rural areas more economic.⁴ As a result of the power limit increase, licensees will be able to extend their

² See Powerwave Petition for Reconsideration, WT Docket Nos. 02-381, 01-14, 03-202 (Jan. 14, 2005) ("Powerwave Petition") at 2.

³ See generally Powerwave Petition; see also Notice of Proposed Rulemaking, *In the Matter of Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services*, WT Docket No. 03-264 (Jan. 7, 2004) ("Biennial Review NPRM"); see also Notice of Proposed Rulemaking, *In the Matter of Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 Bands, Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket Nos. 04-356, 02-353 (Sep. 24, 2004) ("AWS NPRM").

⁴ See *Rural Order* at ¶ 86.

coverage area with fewer base stations.⁵ Holding the new rules in abeyance will be completely counterproductive to these goals. There is no technical reason that increased power limits in rural areas cannot be implemented now while the Commission makes its decisions in the 2002 Biennial Review and AWS proceedings. The *Rural Order* relates only to facilities deployed in rural areas or that are providing coverage to unserved areas,⁶ while the other proceedings apply to power limits in general, across all areas.

Powerwave admits that the FCC has considered the interrelation between the proceedings and made its decision in the *Rural Order* fully aware of related proposals in the Biennial Review and AWS proceedings.⁷ Likely, the FCC simply chose to move its *Rural Order* on a separate track because of carriers' considerable need for more power to adequately serve rural areas. The Commission's future decisions in its Biennial Review⁸ and AWS proceedings⁹ can be harmonized with its existing rules, including those adopted in the *Rural Order*. Specifically, the decisions made in the rural proceeding should not preclude FCC action on proposals made by the industry in the 2002 Biennial Review and AWS proceedings. The *Rural Order* should serve as the FCC's first step towards updating its regulations in keeping with advancing technology.

⁵ See *id.* at ¶ 88.

⁶ See *id.* at ¶ 89.

⁷ See Powerwave Petition at 2, n. 2.

⁸ In the *Biennial Review* proceeding, the FCC is considering proposals on whether to relax its output power limit of 100 watts to "apply on a per carrier basis in the case of MCPAs or eliminat[e] the transmitter output power restriction in its entirety." *Biennial Review NPRM* at ¶17. If the Commission accepts CTIA's proposal that applies both the output power and EIRP limits on a per-carrier basis for carriers serving both rural and nonrural areas, its new rules will not conflict with those established in the *Rural Order*. See generally CTIA Ex Parte, WT Docket No. 03-264 (Dec. 15, 2004).

⁹ In its *AWS NPRM*, the FCC "tentatively concluded that [AWS] base and fixed stations . . . should comply with a power limit of 1640 watts EIRP" and did not propose a change to its peak output power limit. *AWS NPRM* at ¶ 112, Appendix A. Even if the FCC does not take any action on peak output power limits in the AWS proceeding, it will not create a conflict between AWS rules and rules for carriers serving rural areas. Rather, it will just mean that carriers serving rural areas are permitted higher power limits.

Instead of delaying the *Rural Order* decision, the FCC should move expeditiously to act on the industry proposal presented by CTIA in the 2002 Biennial Review proceeding.¹⁰ CTIA's compromise proposal reflects a significant consensus of the industry.¹¹ Allowing carriers to measure output power and EIRP on either a peak or average basis complements this approach.¹² Advancements in technology and economic disincentives to deploy higher output power than necessary make output power limits unnecessary and superfluous and should be further considered, both in the Commission's PCS rules at 47 C.F.R. § 24.131 and its AWS rules at 47 C.F.R. § 27.50(d)(1).

For these reasons, the Commission should reject Powerwave's Petition for Reconsideration. The Commission should not stay increased power limits for rural areas when they are needed in the public interest. Instead, the Commission should move forward as quickly as possible on related rules in the Biennial Review and AWS proceedings.

Respectfully submitted this 21st day of April, 2005.

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¹⁰ Powerwave supports the CTIA proposal. See Powerwave Petition for Reconsideration at 4, n. 5.

¹¹ See CTIA Ex Parte, WT Docket No. 03-264 (Dec. 15, 2004).

¹² See generally Reply Comments of Ericsson Inc, WT Docket No. 03-264 (May 24, 2004).